



July 26, 2002

Ms. Ashley D. Fourt
Assistant District Attorney
Tarrant County
401 West Belknap
Fort Worth, Texas 76196-0201

OR2002-4106

Dear Ms. Fourt:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 166296.

The Tarrant County District Attorney's Office (the "district attorney") received a request for copies of documents pertaining to the arrest, investigation, and prosecution of a specified person. You state that the district attorney has released "front page offense report" information to the requestor. You claim that the submitted information is excepted from disclosure pursuant to sections 552.101, 552.108, and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the submitted information.

Initially, we note that the information at issue contains two accident report forms that are subject to section 552.101 of the Government Code in conjunction with section 550.065(c) of the Transportation Code.¹ These forms appear to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064. Section 550.065(b) provides that, except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b). Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *See* Transp. Code § 550.065(c)(4). Under this

¹ Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Section 552.101 encompasses information protected by other statutes.

provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *See id.* In this case, we find that the requestor has not provided the district attorney with two or more of the pieces of information required under section 550.065(c)(4). Accordingly, we conclude that the district attorney must withhold these two accident report forms from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 550.065(c) of the Transportation Code.

You claim that the remaining information is excepted from disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a) provides in pertinent part that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from disclosure if “release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 as an exception to disclosure of requested information must demonstrate, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement or prosecution. *See Gov’t Code §§ 552.108(a), (b), .301(e)(1)(A); see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the case associated with the person named in the request is a pending criminal case. Thus, we agree that the release of the remaining information “would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a). Accordingly, we conclude that the district attorney may withhold most of the remaining information at issue from disclosure pursuant to section 552.108(a)(1) of the Government Code.

However, we note that the “front page offense report” information that you state has been released to the requestor does not appear to contain information pertaining to a detailed description of the offense. Accordingly, we conclude that the district attorney must release this additional information to the requestor. *See Gov’t Code § 552.108(c)* (stating basic information regarding crime not excepted from disclosure under Gov’t Code § 552.108; *see also Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) (summarizing types of information considered basic information, including detailed description of offense). Because we base our ruling on sections 552.101 and 552.108, we need not address your remaining claim regarding section 552.111 of the Government Code.

In summary, the district attorney must withhold the two accident report forms from disclosure pursuant to section 552.101 of the Government Code in conjunction with section 550.065(c) of the Transportation Code. The district attorney may withhold the remaining information at issue from disclosure pursuant to section 552.108(a)(1) of the Government Code, but must release information regarding the detailed description of the offense.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

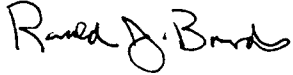
If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code

§ 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald J. Bounds". The signature is fluid and cursive, with the first name "Ronald" being more prominent.

Ronald J. Bounds
Assistant Attorney General
Open Records Division

RJB/seg

Ref: ID# 166296

Enc. Submitted documents

cc: Mr. Michael S. Francis
Flynn, Campbell & Francis
700 East Southlake Boulevard, Suite 150
Southlake, Texas 76092
(w/o enclosures)